

**REMARKS**

This Amendment is in response to the Office Action mailed January 7, 2004, having a three (3) month shortened statutory period for reply. A Petition for a One Month Extension of Time in accordance with 37 C.F.R. §§1.136(a) and 1.17(a) is submitted herewith.

Claims 1 to 11 are pending and claims 12-13 are cancelled in this application. Claims 1, 3, 5 and 8-11 have been amended.

As requested by the Examiner, a proper abstract is attached herewith.

Attached herewith is an Information Disclosure Statement Under 37 C.F.R. § 1.97(b).

Applicant requests consideration and entry into the record of the following amendments and remarks.

**Amendments to the Specification and Claims**

In the interest of advancing prosecution, the specification and/or claims of the present application has been amended for the sake of clarification or to correct inadvertent typographical errors made therein.

In particular, the present specification has been amended to include the following proviso statement

"Preferably one of Z<sup>1</sup>, Z<sup>2</sup>, Z<sup>3</sup>, Z<sup>4</sup> and Z<sup>5</sup> is N and one of Z<sup>3</sup> and Z<sup>5</sup> if not N is CR<sup>1a</sup> and the remainder are CH, or one of Z<sup>1</sup>, Z<sup>2</sup>, Z<sup>3</sup>, Z<sup>4</sup> and Z<sup>5</sup> is CR<sup>1a</sup> and the remainder are CH."

Support for the above-identified statement is found at page 38, lines 9-10 of the originally filed disclosure claim section of published PCT International WO 00/78748 A1 application.

All specification amendments are reflected in the Amendment to the Specification section (see, pages 2 to 7).

As requested by the Examiner, claim 3 has been amended to correct for a minor typographical punctuation informality error (i.e. removal of an extra period at the end of the claim).

All claim amendments are reflected in the Listing of Claims section (see, pages 8 to 15).

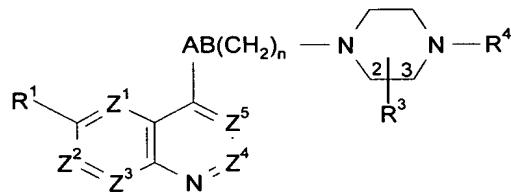
No new matter has been added to the claims or specification by the amendment. Support for all amendments are found in the originally filed claims and specification.

**Rejection Under 35 U.S.C. §112, 2<sup>nd</sup> paragraph**

Claims 1-7 and 9-11 are rejected under 35 U.S.C. §112, 1<sup>st</sup> para., for being indefinite and for failing to particularly point out and distinctly claim the invention.

The Examiner indicates that a bond is omitted from the pictorial representation of the chemical structure of Formula (I), which depicts a dimethylaminoethylene group connected to the "R<sup>4</sup>" and "AB(CH<sub>2</sub>)<sub>n</sub>" functional groups with a 1 and 4 substitution pattern, instead of depicting a piperazine ring with identical substituents at the same substitution positions as supported by other dependent claims in the application.

In light of the foregoing, claim 1 has been amended to depict the correct piperazine chemical structure and functional group substitution pattern as shown below:



The Examiner also indicates that the phrase "pharmaceutically acceptable derivatives thereof" is indefinite as it is unclear what derivative compounds are "contemplated".

Claims 1 and 9-11 have been amended to delete the term "derivative" from the phrase "a pharmaceutically acceptable derivative thereof" and recite instead the phrase "a compound of Formula (I) or a pharmaceutically acceptable salt and/or N-oxide thereof" (support for this amendment is found at page 6, lines 30-31 of the specification).

For further clarification, amended claim 1 now recites specific definitions of "heterocyclic", "aryl" and/or "acyl groups" (support for these amendments are found at page 5, lines 24-73 to page 6, lines 1-13 and throughout the originally filed disclosure). Amended claim 1 now defines correct organic chemical terminology as understood by the ordinary chemical artisan consistent with general organic chemistry principles by eliminating inadvertent definitional errors by reciting the term "(C<sub>2</sub>-<sub>6</sub>)alkenyl", instead of "(C<sub>1-6</sub>)alkenyl"; "(C<sub>2-6</sub>)alkenylsulphonyl", instead of "(C<sub>1-6</sub>)alkenylsulphonyl"; "(C<sub>2-6</sub>)alkenyloxycarbonyl", instead of "(C<sub>1-6</sub>)alkenyloxy carbonyl"etc."

In each of the above-identified amendments, no new matter has been added to the claims and/or specification of the present application.

In light of the above, applicant requests that the above rejection under 35 U.S.C. § 112, 2<sup>nd</sup> paragraphs, be withdrawn.

#### **Allowable Subject Matter**

Claim 8 is indicated to be allowable if rewritten in independent form to include all limitations of the base claim and any intervening claims.

Applicants thank the Examiner for indicating that applicants compounds are novel over U.S. Patent No. 6,602,882 to Davies et al., which claims only piperidine compounds and not the piperazine compounds of the present application.

As rejections to the base and any intervening claims have been overcome by amendments to claims 1-7 and 9-11, applicants believe that all claims 1-11, including claim 8, are now are in condition for allowance and is earnestly solicited.

**CONCLUSION**

In view of the above amendments and remarks, applicant believes that the claims of the present application are in condition for allowance and is earnestly solicited .

If any additional fees or charges are required authorization is hereby granted to charge any necessary fees to Deposit Account No. 19-2570 accordingly.

Should the Examiner have any questions or wish to discuss any aspect of this case, the Examiner is encouraged to call the undersigned attorney at the number below.

Respectfully submitted,



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